

Minneapolis Community Development Agency

Request for City Council Action

Date: July 29, 2003

To: Council Member Lisa Goodman, Community Development Committee
 Council Member Barbara Johnson, Ways and Means/Budget Committee
 Council Member Sandy Colvin Roy, Transportation/Public Works Committee
 MCDA Operating Committee

Prepared by Cherre' Palenius, MCDA Project Coordinator, Phone 612-673-5241

Approved by Lee Sheehy, MCDA Executive Director
 Chuck Lutz, MCDA Deputy Executive Director _____

SUBJECT: Land Sale – Public Hearing
 Heritage Park Redevelopment Project
 Grant Urban Renewal and Common Development/Redevelopment Plan

PARCELS

1-11

Sales Price

\$668,000

PURCHASER: Heritage Housing, L.L.C.

Previous Directives: On July 30, 1999, the City Council approved the Near North Community Redevelopment Plan. On March 24, 2000, the City Council approved the Near Northside Master Plan. On May 12, 2000, the City Council and the MCDA Board of Commissioners approved a Near Northside Master Development Agreement with McCormack Baron. On December 18, 2000, the City Council approved amending a term in the Near Northside master Development Agreement extending the length of time that development agreements are executed among all the parties. On December 16, 2002, the City Council approved amending the Near Northside Master Development Agreement with McCormack Baron & Associates. On April 22, 2003, the MCDA Board of Commissioners authorized staff to enter into negotiations with Heritage Housing L. L. C. based on their proposed Scope of Services, returning with a term sheet within 90 days.

Ward: 5

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Neighborhood Group Notification: Not Applicable. The Near Northside Master Plan, on which phase 1 & 2 of Heritage Park is based, was the subject of an extensive community process in 2000. In March, 2003 residents from both the Harrison and Near North neighborhoods selected Heritage Housing, L. L. C. as the recommended developer for the ownership housing to be developed in Heritage Park. On April 15, 2003 the Harrison neighborhood housing committee and board recommended Heritage Housing, L. L. C. to develop the for sale housing for the first phase of Heritage Park, based on the responses from the community meetings.

Consistency with *Building a City That Works*: The Heritage Park project is consistent with Goal 1: Increase the city's economic competitiveness and extend the benefits of the growing economy to all Minneapolis residents; Goal 2: Ensure an array of housing choices exist to meet the needs of our current residents and attract new residents to the city; Goal 3: Support strong and diverse neighborhoods where people choose to live; and Goal 5: Participate in partnerships to achieve common community development objectives.

Comprehensive Plan Compliance: Phase 1 and 2 of the Heritage Park ownership development is consistent with the current Comprehensive Plan.

Zoning Code Compliance: Will comply.

Impact on MCDA Budget: (Check those that apply)

☐ No financial impact

☒ Action requires an appropriation increase to the MCDA Budget

☒ Action provides increased revenue for appropriation increase

☐ Action requires use of contingency or reserves

☐ Other financial impact (Explain):

Living Wage / Business Subsidy: Phase 1 and 2 of the Heritage Park development involves only housing, which is exempted from the Living Wage and Business Subsidy requirements.

Job Linkage: Phase 1 and 2 of the Heritage Park development involves only housing, which is exempted from the Job Linkage requirements.

Affirmative Action Compliance: The development agreement for phase 1 and 2 of the Heritage Park development will require the developer to comply with all applicable MCDA and City affirmative action goals.

RECOMMENDATION:

City Council Recommendation:

1. Approve the business terms and conditions for phase 1 and 2 Development Agreement for Heritage Park among the City of Minneapolis, Minneapolis Community Development Agency, and Heritage Housing, L.L.C. as outlined in this report;

- 2. Authorize the appropriate City officials to execute the phase 1 and 2 Development Agreement with Heritage Housing, L.L.C.;**
- 3. Amend the 2003 MCDA Appropriation Resolution to increase the appropriation in Fund SDA (Development Account) by \$668,000 and increase the Fund SDA (Development Account) revenue (3485-Sale of Land and Buildings) by \$668,000;**
- 4. Transmit this report to the MCDA Board of Commissioners for concurrence and approval.**

MCDA Recommendations:

- 1. Authorize the sale of these properties to Heritage Housing, L.L.C. and authorize appropriate staff to execute all necessary documents.**
- 2. Approve the business terms and conditions for Heritage Park as outlined in this report;**
- 3. Authorize the appropriate MCDA officials to execute the phase 1 and 2 Development Agreement;**

Background/Supporting Information

The Heritage Park Redevelopment Project is envisioned to contain approximately 900 new construction, mixed-income rental and ownership units to be built using the traditional architectural styles found in the surrounding Minneapolis neighborhoods and the principals of “new urbanism.” Of the nine hundred new housing units to be constructed in four phases, 440 units will be rental units and approximately 360 units will be homeownership units. The first two phases of the project are located north of Olson Memorial Highway, with the third and fourth phases located south of Olson.

On November 21, 2002 the Interim MCDA Executive Director authorized staff to issue a Request for Proposals (RFP), for the construction of the first two phases of mixed-income, for sale housing to be developed in the Heritage Park Redevelopment Project. On April 22, 2003 the MCDA Board of Commissioners authorized negotiations with Heritage Housing, L.L.C. the partnership team consisting of Sienna Corporation, Thor Construction, and Northside Residents Redevelopment Council (NRRC) based on their Scope of Services.

During the past eight weeks, MCDA, MPHA, and Minneapolis Public Works staff have met intensively with the Heritage Housing development team to clarify the current schedule of existing activities occurring at the site, and to develop agreeable redevelopment business terms and conditions between the public entities and the developer.

Proposed Development:

Heritage Housing, L.L.C. acting as the Master For Sale Developer (Redeveloper) will perform the phase 1 and 2 land development, architectural and site coordination functions that will result in buildable lots for individual builder/developers. The Redeveloper proposes to develop 167 units, containing a mix of 74 single family homes and 93 multi-family units comprised of duplex, townhouses, senior cottages, and condominium units, including all landscaping in accordance with construction plans that will be pre-approved by the MCDA. Of the 167 ownership units to be constructed in phase 1 and 2 in Heritage Park, 15% of the units (25 units) will be sold to purchasers with incomes below 60% of the area median income (AMI). The Redeveloper is working with Twin Cities Habitat for Humanity (Habitat), as a developer who can construct and market these units through their existing program. An additional 15% (25 units) will be sold to purchasers with incomes below 80% AMI. The Redeveloper anticipates several non-profit developers including Project for Pride in Living (PPL), NRRC, and Greater Metropolitan Housing Corporation (GMHC) to construct and market these units to qualified buyers. The Redeveloper will use reasonable efforts to locationally disburse all of the affordable units throughout the phase 1 and 2 project areas.

In addition, the Redeveloper is working through the Agency's competitive process to acquire another 40 MCDA-owned buildable lots in scattered locations, thereby expanding the availability of these quality homes throughout North Minneapolis.

Consistent with the RFP, initial development rights include only phases 1 and 2. Subject to certain performance thresholds outlined in the term sheet, however, negotiations for phases 3 and 4 (south of Olson Highway) may proceed starting in January of 2004.

Soil/Environmental Correction Expenditures

The Redeveloper will complete all soil and environmental correction/remediation and site grading on the ownership parcels. All excavation work will be completed in accordance with the Construction Contingency Plan in conjunction with the established Response Action Plan, approved by the Minnesota Pollution Control Agency. The Redeveloper estimates \$200,000 will be needed to address potential soil contamination remediation on MPHA land and shall seek grant funding. If unsuccessful in obtaining remediation grant funds, the Redeveloper is requesting reimbursement from land sale proceeds. The Redeveloper has determined the soil correction (geotechnical) activities will be \$1,410,000 (or \$8450/unit), which amount is based on actual bids received, provided the Redeveloper can begin the soil correction and site grading activities this September.

Land Acquisition

The phase 1 and 2 property located in the Heritage Park Redevelopment Project is partially owned by the MCDA (parcels 6,7,8,9,11, and a portion of parcel 4) and partially owned by the MPHA (parcels 1,2,3,5, and a small portion of parcel 4). The MCDA and

MPHA will enter into a conveyance agreement authorizing the MCDA to convey all of the land owned by the public entities to the Redeveloper. Staff will return with a separate report detailing the terms and conditions of this conveyance agreement.

The Redeveloper is requesting to close as soon as possible to begin site development activities and has offered \$668,000 (\$4,000 a unit/lot) to acquire all of the for-sale development parcels located in phase 1 and 2. This amount when combined with the soil correction and private/public infrastructure expenses equates to \$8.16 per square foot, which falls within the fair market value indicated in the RFP.¹ The property being sold for development are 'buildable lots' as defined by the MCDA Land Disposition Policy. Land sale proceeds in the amount of approximately \$8,700 may be restricted to pay Common Project debt service.

The total development costs for the ownership housing is projected at \$37.5 million. The Redeveloper will make an initial payment of \$167,000 (\$1,000 a unit/lot) for the property at closing. The remaining balance, \$501,000 (\$3,000 a unit/lot) will be secured by an MCDA mortgage on the property and will be paid at the time lots are conveyed to builders. In accordance with the MCDA Disposition Policy, the Redeveloper is requesting the Agency escrow net land sale proceeds to reimburse the Redeveloper for any unforeseen soil correction, remediation and site improvement costs. The availability of these funds is subject to a number of conditions and requirements (Section A (2)(a)(i-v) on the attached term sheet). One condition is that before any disbursements are made to the Redeveloper for soil correction expenditures, the Redeveloper must meet certain performance requirements based on the issuance of Certificates of Completion. Another condition is that escrowed net land sale proceeds will initially be used to acquire parcel 10 and then be available for the following expenditures in rank order: reimbursable soil correction costs; special assessments gap; balance to the MCDA (Section A (2)(e) in the term sheet). This action does not approve condemnation, if necessary, staff will return with a condemnation resolution.

In addition to the acquisition proceeds paid by the Redeveloper to the Agency there is a provision to capture an additional amount based upon the final resale value of each unit/lot. If the Redeveloper realizes aggregate lot sale proceeds in excess of \$7,929,200, these excess proceeds will be used to make the Redeveloper whole on any outstanding soil correction costs (not already reimbursed) and operating expenses (not to exceed \$238,800). After these expenses are fulfilled the excess proceeds will be equally divided between the Redeveloper and the MCDA, restricting the Redeveloper's profit to \$1,009,000 or 13%. Excess proceeds received by the MCDA will be applied against unpaid special assessments. If the Redeveloper reaches their cap before the special assessments are fully paid, the Redeveloper will receive one-third of excess proceeds and the MCDA will receive two-thirds until the special assessments are satisfied. Once these benchmarks have been achieved the excess proceeds will be divided equally, one-third to the Redeveloper, one-third to the MCDA, and one-third to the Affordability Fund.

¹ $(\$1,410,000 + \$200,000 + \$2,600,000 + \$208,000 + \$197,000 + \$355,000 + \$668,000) / 690,862 = \8.16

Site Preparation/Infrastructure

The City is responsible for constructing streets and other public improvements (utility, sidewalk, curb/gutter, alleys, street lights, etc.) on the site consistent with the approved Master Plan. The City will work with the Redeveloper on the timing and coordination of this work. The City will replat all the right of ways in the phase 1 and 2 areas to establish the phase 1 and 2 ownership development areas into outlots. By mutual agreement, the City will contract with the Redeveloper to install the alleys on the site and may contract with the Redeveloper to install other public improvements within the right of way areas (sidewalks, street trees, sod, etc.).

The Redeveloper will undertake all soil and environmental corrections, including site-grading activities on the phase 1 and 2 for-sale parcels. The Redeveloper will be responsible for installation of the private infrastructure, which shall include lot grading, utility connections to the dwelling units, landscaping, and all private utility construction or relocation. The MCDA and the Redeveloper will work cooperatively with MPHA and the rental housing developer in coordinating the development of the site and the construction of the housing units. As the soil correction and site-grading activities commence, the Redeveloper anticipates submitting replatting/rezoning applications for review and approval by the Minneapolis Planning Department for the ownership parcels located in phase 1, (Blocks 1, 2, and 3).

The City has estimated the preliminary special assessments to be levied against the ownership parcels for public infrastructure improvements at approximately \$2.6 million. The Redeveloper has indicated the maximum amount the for-sale parcels can contribute toward payment of the special assessments is \$2,137,230, leaving the developer with a reasonable return of 12%. The Redeveloper is requesting the City cap the special assessments at \$2,137,230 (\$12,798/u), and is anticipated to be paid in full at closing with the purchaser. Capping the special assessments will create an estimated special assessment gap of \$436,000. There is a possibility that the ownership development could contribute towards funding this gap from potential cost savings and/or with excess lands sale proceeds, as follows:

Public infrastructure improvements	\$2,600,000
Developer's special assessment cap	(\$2,137,230)
Public/Private site Improvements contingency* ²	(\$ 117,400)
Escrowed land sale proceeds* ³	(\$ 259,300)
Excess land sale proceeds* ⁴	<u>(\$ 86,070)</u>

Development Budget

Exhibit B to the term sheet indicates the Redevelopers sources and uses of funds for the development. The land sale proceeds of \$7,929,200 is based upon a formula that a

² Estimated unused portion of the contingency set aside for public/private site improvements. (\$356,500-\$238,800).

³ Estimated balance of escrowed land sale proceeds after acquisition of parcel 10, soil correction expenses, and debt service payment. (\$668,000-\$150,000-\$250,000-\$8,700)

⁴ Estimated remaining balance of special assessments that may be paid from excess participation proceeds.

certain percentage of the fair market value of the finished property sold to the purchaser is attributable to the land. The percentage used to determine the amount of the land sale proceeds ranges between fifteen percent for the less than 60% units to twenty-five percent on the market-rate units. As indicated on the budget, \$4,863,500 of these land sale proceeds is for site improvements (soil correction, public/private infrastructure improvements).⁵

The Redeveloper has agreed to provide a write down of \$4,000 a unit/lot to the developer (Habitat) producing the 25 units which will be affordable to households earning at or below 60% AMI.⁶ As a developer, Habitat will need to purchase the units they are developing for \$21,000 a unit/lot (total amount \$525,000) to reimburse the Redeveloper for expenses incurred to provide a buildable parcel (soil correction and site improvements).

The balance after all soil correction and site improvements are expended (\$2,527,700) will be used to pay for soft costs (administration, marketing, finance, W/MBE, etc.) through December 2005, leaving the Redeveloper with a 12% profit margin.

Affordability Fund

The Redeveloper will create an Affordability Fund to assist low-to-moderate income purchasers with down payment, closing costs, and second mortgage assistance consistent with MCDA policy. The MCDA will provide \$261,000 of mortgage revenue bond funds to the Affordability Fund. In addition to excess land sale proceeds, the Redeveloper will seek alternative financing products and resources to fund the Affordability Fund.

Marketing

The Redeveloper will create a Heritage Park Welcome/Sales Center. The Welcome Center will introduce prospective purchasers to existing neighborhood institutions and the overall Heritage Park Redevelopment Project. Interested purchasers may access homeownership workshops, offered in several languages through non-profits networking with the Home Ownership Center, along with private one-on-one financial counseling. The Welcome Center will provide marketing and sales information on the various builder products, styles, and price ranges being offered.

Builders

To assist Builders with the W/MBE, Section 3, Affirmative Action requirements and paperwork necessary for compliance, the Redeveloper will create a Heritage Park Resource Center. The Resource Center will provide direct assistance and training to construction contractors, laborers, and vendors to ensure proper compliance reporting and documentation. The Resource Center will connect Summit Academy OIC and Urban League trained personnel, and conduct outreach to local residents for employment opportunities. Attached to the term sheet, as Exhibit D is the initial list of approved builders for the site.

⁵ \$2,137,000 + \$2,726,000 = \$4,863,500/167 = \$29,122/u

⁶ \$4,000 x 25/units = \$100,000.

Schedule

The schedule indicated in section A (2) (f) indicates when the Redeveloper will begin certain activities and specific default dates. The Redeveloper anticipates starting many of these activities sooner, subject to unforeseen circumstances. While the Hollman Consent Decree, primarily pertains to the rental development, detailed timelines for the for-sale development were added in a 2002 stipulation among the parties. The Redeveloper's timelines do not meet the schedule as currently specified in the stipulation.

Exhibits

The following materials are attached:

- Heritage Housing Term Sheet
 - Exhibit A – Site Map
 - Exhibit B – Sources and Uses of Funds
 - Exhibit C – Redeveloper Activity Schedule
 - Exhibit D – Approved Builder List
- Schematic building designs and floor plans.

HERITAGE HOUSING TERM SHEET*

A. General Description of Public and Private Improvements

1. Public Improvements.

- a. **Public Improvements.** The City shall undertake all street, streetlight, sanitary sewer mains, water mains, water, sidewalks, curb and gutter, landscaping and other related work within the public/ROW areas identified on the proposed Project Site map attached hereto as Exhibit A (the “Public Improvements”). The City will contract with Redeveloper to install the alleys on the site in accordance with City specifications for \$170,230 and, at its option, may contract with Redeveloper to install certain of the sidewalks, streetlights, and landscaping Public Improvements. Except where infeasible due to necessary Public Improvements, to the extent Public Improvement work is not already irrevocably underway, the City shall reasonably work with Redeveloper to be flexible in timing and coordination of such work provided that if the City delays Public Improvement work at the request of the Redeveloper, Redeveloper shall be responsible for any delays in builders' ability to obtain building permits and certificates of occupancy caused by such flexibility. The City will provide a period of time for Redeveloper's installation of utility connections to water and sewer mains prior to completion of street work, including paving. Redeveloper acknowledges that the City will need periods of exclusive use of right-of-way for completion of street work, including paving.
- b. **Schedule.** The City shall complete the Public Improvements in accordance with a schedule to be attached to the Redevelopment Contract.
- c. **Special Assessments.** The City will cap the amount of Public Improvement costs it will assess/charge to the Phase I and II property at \$2,137,230 plus related interest and fees. The Redeveloper will waive its right to appeal this amount of special assessments for City Public Improvements. The specifics of how and when the special assessments/interest/fees will be paid will be negotiated between the parties before the Redevelopment Contract is signed.
The parties acknowledge that the amount to be expended by the City for Public Improvements associated with Phases I and II may exceed the amount agreed to as Special Assessments (\$2,137,230). The difference between what the City would have ordinarily assessed using its standard methodology for assessing Public Improvement Costs and \$2,137,230 is referred to as the “Special Assessment Gap.” The Special Assessment Gap is estimated to be \$463,000. Land sale proceeds, budget savings and profit participation are intended to help address this Special Assessment Gap as further described herein.

2. Redeveloper Activities

- a. **Soil and Environmental Correction.** Redeveloper will undertake soil testing and engineering, all soil and environmental correction, including environmental remediation, and site grading in the non-public areas identified on Exhibit A (the “Soil Correction Work”). The Redeveloper and City shall reasonably cooperate to coordinate Soil Correction Work with the other construction activities underway, including those by the rental housing developer, private utility companies and park and open space contractors. Redeveloper shall ensure that all excavation work associated with the project is monitored according to the Construction Contingency Plan related to the existing

* To the extent this term sheet refers to the MCDA, the Redevelopment Contract shall reflect the MCDA, its successors and assigns.

Response Action Plan for the area already approved by the Minnesota Pollution Control Agency. MCDA will escrow net land sale proceeds under Section A(2)(e) below to pay or reimburse Redeveloper's "Soil Correction Costs" after exhaustion of the following priority of sources (See Exhibit B for details on Redeveloper Sources and Uses):

- (i) Redeveloper budgeted amount: (\$1,410,000);
- (ii) **Any Unneeded Budgeted Amounts**, as described in Section A(2)(d) below;
- (iii) Outside grants either obtained by Redeveloper or that the MCDA or City identifies as MCDA obtained grants that are not otherwise needed for costs related to the rental housing or public infrastructure, if any;
- (iv) Surplus lot sale proceeds in excess of \$7,959,200 as described in Section B(3)(f);
- (v) Redeveloper's \$356,500 contingency amount.

For purposes of this Agreement, Soil Correction Costs means the site and engineering work necessary and required to clean, clear, remove, mitigate and/or remediate "Unsuitable Soils" as defined by the MCDA property disposition policy.

The final cost determination for Redeveloper Soil Correction Costs shall be made after all Phase I and II lots have been tested and certified as "buildable" and all Redeveloper Site Improvements are completed. The amount of Soil Correction Costs to be reimbursed to Redeveloper out of the net escrowed land sale proceeds shall be referred to as the "Soil Reimbursement Amount." If the Soil Reimbursement Amount is less than \$ 150,000, Redeveloper shall, prior to conveying any lots to builders, provide the MCDA with a Letter of Credit or other form of security in form reasonably satisfactory to the Agency equal to the difference between the Soil Reimbursement Amount and \$ 150,000 (the "Security LOC"). Fifty percent (50%) of the Soil Reimbursement Amount will be available for disbursement to Redeveloper upon the issuance of Certificates of Completion for at least 80% of the units in Phases I and II. Twenty-five percent (25%) of the Soil Reimbursement Amount will be available for disbursement to Redeveloper upon the issuance of Certificates of Completion for at least 90% of the units in Phases I and II. The remaining twenty-five percent (25%) of the Soil Reimbursement Amount will be disbursed to Redeveloper upon the issuance of Certificates of Completion for all of the units in Phases I and II. Likewise, the Security LOC will be released in the same percentage amounts at the same milestone dates.

- b. **Site Improvements.** In addition to the Soil Correction Work, Redeveloper shall be responsible for the construction of all private infrastructure, including lot grading, utility connections from watermains and sanitary sewer mains to the dwelling units and all private utility construction or relocation (the "Site Improvements"). Redeveloper shall install all Site Improvements at its sole cost and in accordance with plans and specifications approved or to be approved through standard City procedures prior to commencement of construction. The City will follow normal review and approval procedures for regulatory or permitting activities. Redeveloper will provide a (110%) letter of credit or payment and performance bonds (at its option) for the Site Improvements to be constructed by Redeveloper. The Redeveloper and City shall reasonably cooperate to coordinate Site Improvement work with the other construction activities underway, including those by the rental housing developer, private utility companies and park and open space contractors.
- c. **Minimum Improvements.** Redeveloper shall construct or cause to be constructed approximately 167 dwelling units, consisting of 74 single family homes and 93 multi-family units, including all landscaping, on the Phase I and II property in accordance with construction plans approved by MCDA (the "Minimum Improvements"). In addition to

market-rate housing units, Redeveloper shall ensure that 15% of the units are sold to homeowners with incomes below 60% of the AMI and that 15% of the housing units will be sold to homeowners with incomes between 60 and 80% of the AMI and that such units are affordable to such homeowners (the "Affordable Units"). For the purposes of the agreement, a unit is affordable to a purchaser (i) if the maximum that the purchaser pays on a monthly basis, taking into account principal, interest, taxes and insurance, and association dues is no more than 33% of purchaser's monthly income or (ii) if the unit is otherwise deemed by MCDA to be affordable. Redeveloper shall encourage the use of high quality modular housing components in the construction of the Minimum Improvements by Builders, however, all use of modular components shall be specifically presented to and approved by the MCDA prior to their implementation in the project. Given marketing, design, lot size and other relevant considerations, Redeveloper will use reasonable efforts to locationally allocate the Affordable Units throughout the entirety of Phases I and II. Redeveloper shall provide MCDA with monthly updates reporting breakdowns of the number and types of units being constructed, completed and occupied. Redeveloper shall ensure that the MCDA receives copies of closing statements signed by the title company, builder and purchaser upon the sale of each unit (regardless of whether the unit is an Affordable Unit) and an income qualification sheet for each Affordable Unit purchaser. Redeveloper shall request information (after the provision of an appropriate Tennessean Warning) from each Unit purchaser (regardless of whether the unit is an Affordable Unit) regarding such purchaser's income, previous neighborhood or city of residence, and ethnicity. Redeveloper shall provide any information it receives in response to such request in summary form to the MCDA such that the names and addresses of individuals shall not be identifiable.

- d. **Unneeded Budget/Contingency Uses.** Any amounts in Redeveloper's Budget for Soil Correction Costs or Site Improvements (\$2,526,500 total) that are not needed for Soil Correction Costs or Site Improvement Costs shall be available for the following uses in the following order of priority:

- (i) Soil Correction Costs.
- (ii) Redeveloper Operating Expenses to the extent they exceed \$1,597,027 provided that in no event shall excess Redeveloper Operating Expenses over \$238,800 be funded from this source.
- (iii) To the City for any Special Assessment Gap.
- (iv) To the Redeveloper.

Redeveloper shall bid all Soil Correction Work and Site Improvement Work to at least three bidders, and shall certify such costs, upon completion, to MCDA, in accordance with standard MCDA procedures.

- e. **Escrowed Land Sale Proceeds.** The escrowed net land sale proceeds shall be available for the following uses in the following order of priority^{**}:

- (i) to the acquisition of Parcel 10 on Exhibit A;
- (ii) to Soil Correction Costs in accordance with Section A(2)(a);
- (iii) to the City for any Special Assessment Gap; and
- (iv) to the MCDA.

- f. **Schedule.** Redeveloper intends to begin soil correction and grading work immediately upon closing on the Phase I and II land or pursuant to a Right of Entry Agreement if Closing is delayed, in part, because of the timing of the platting process. Redeveloper

^{**} Up to \$8,738 of land sale proceeds may be restricted to debt service on TIF bonds and shall be deducted from net land sale proceeds before the uses described in Section A(2)(e).

expects to commence soil correction work on or before September, 2003. If not commenced by March 1, 2004, will constitute a default. Stages of construction to be commenced and completed pursuant to Exhibit C.

- (i) Single Family. Single family units desired/default commencement dates (note these are default dates: Generally, Redeveloper expects to start sooner and complete faster)

Desired Default

9/1/03	3/1/04	commence Redeveloper Soil Correction Work
12/1/03	6/30/04	commence unit construction
6/30/04	12/31/04	20% of units completed
12/31/04	6/30/05	40% of units completed
6/30/05	12/31/05	60% of units completed
12/31/05	6/30/06	80% of units completed
6/30/06	12/31/06	100% of units completed

- (ii) Multi-Family. Multi-family units commencement dates

Desired Default

9/1/03	3/1/04	commence Redeveloper Soil Correction Work
12/1/03	6/30/04	commence unit construction
12/31/04	6/30/05	50% of units completed
6/30/05	12/31/05	100% of units completed

- h. **Project Coordinators**. Redeveloper, the City and the MCDA will each provide a site or project contact to coordinate all Public Improvement, Site Improvement and Soil Correction work.
- i. **Insurance**. Until all units are completed, Redeveloper shall carry (i) general liability insurance naming the MCDA and the City as additional insureds with \$1,000,000 per occurrence limits and (ii) workers compensation insurance.
- j. **Right-of-Way Use**. The Redeveloper must obtain prior approval from the City for any use (such as stockpiling or over-excavation) of right-of-way areas for purposes other than for general traffic use. The City shall not unreasonably withhold its approval.

B. Business Terms

1. Land Acquisition

- a. **Acquisition**. MCDA staff will use reasonable efforts, as allowed by law, including seeking condemnation authority, if necessary, to acquire Parcel 10 and any other Phase I and II Property not owned by MCDA or MPHA for housing sites with a goal of allowing for transfer to Redeveloper no later than March 1, 2004. If unable to negotiate a purchase agreement on Parcel 10 by September 15, 2003, MCDA will seek authority to commence "quick take" proceedings for the lots not owned by MCDA or MPHA in Phases I and II with a goal of allowing for transfer to Redeveloper not later than March 1, 2004.
- b. **Conveyance**. MPHA will have agreed to convey to MCDA all the Phase I and II property owned by MPHA on or before the date of closing with Redeveloper.

2. Land Disposition

- a. **Closing.** Redeveloper will purchase, (as described under B(3)(a-f) below), all of the Phase I and Phase II property owned by MCDA or MPHA from MCDA within 30 days of execution of the Redevelopment Contract and satisfaction of preconditions to closing, including demonstration of Redeveloper's private financing and equity, and filing of the final City of Minneapolis Heritage Park Plat 2 (the "Plat") whichever is later. If the Redevelopment Contract is signed and all preconditions to closing have been satisfied except that the Plat is not yet final and filed, the MCDA will reasonably negotiate a Right of Entry Agreement with Redeveloper to allow Soil Correction Work to commence in September 2003 on Phase I and Phase II property that cannot yet be conveyed. Such purchase shall occur no later than December 31, 2003, provided that if any property still needs to be acquired by the MCDA or cannot be conveyed because platting is still in process, closing on such property shall be delayed as needed, provided that any Phase I or Phase II property acquired thereafter shall be conveyed to Redeveloper within 30 days of MCDA Acquisition or plat filing. Prior to execution of the Redevelopment Agreement, the Redeveloper and the rental housing developer will enter into a separate letter agreement concerning how Redeveloper and the rental housing developer will use Parcel 3 and other applicable areas of the site that will be reasonably acceptable to the MCDA and the City.
- b. **"As Is" Sale.** The MCDA will convey the Phase I and Phase II property to the Redeveloper "as-is," "where-is" and with all faults, subject to the MCDA's reimbursement to Redeveloper from the land purchase price for Soil Correction Costs. MCDA's obligation to reimburse with respect to Soil Correction Costs, however, is limited to the net land sale proceeds.
- c. **Deeds.** All deeds shall be subject to the requirements of the Redevelopment Contract and a forfeiture provision (which will be subordinated to Redeveloper project financing and builder construction financing), to be released on each lot/unit upon MCDA issuance of a Certificate of Completion for each unit. MCDA and Redeveloper agree to coordinate Certificate of Completion inspections with builder/lender/owner final walk-throughs.

3. Land Price and Payment

- a. **Land Price.** Redeveloper will pay MCDA a guaranteed minimum of \$4,000 per lot/unit for the land, subject to the soil/environmental reimbursement under A(2)(a). Initial payment will occur at the time the Phase I and Phase II land is conveyed to Redeveloper and will be the greater of (i) \$1,000 per lot/unit or (ii) the price to be paid by MCDA for Parcel 10. The balance of \$3,000 per lot/unit will be deferred and secured by an MCDA

mortgage on the property, which will be subordinate to the Redeveloper Project costs, and paid at the time lots are conveyed to Builders. It is the agreement of the parties that after taking into consideration the costs being borne by the Redeveloper in Phases I and II associated with special assessments for Public Improvements, Soil Correction Work and Site Improvement Work, the Phase I and Phase II land is being sold to the Redeveloper for its fair market value.

- b. **Interest Rate.** Outstanding amounts for land secured by the MCDA mortgage will accrue interest at a rate of prime plus one percent per year and will be payable pro-rata when each lot or unit is released.
 - c. **Timing.** Land payment to MCDA and lot/unit mortgage release shall occur at the time each lot or unit is sold by Redeveloper to a Builder.
 - d. **Price Formula.** Land price to Builders will be based on total development cost of lot and house pursuant to the formula below. Total development cost includes both public and private improvements. The total development cost will be estimated at the time of closing between Redeveloper and Builder and will be adjusted at the time of closing between the Builder and the homeowner.
 - e. **Land Price Targets.** Land Price Adjustment will be based on anticipated sales price, but with goal of land prices equal to (i) 15% of the total development costs on 60% units (Habitat); (ii) 20% to 22% of total development costs on 60% to 80% units; and (iii) 25% to 30% of total development costs on market units. All lot prices to Builders will be set by Redeveloper at its discretion. Redeveloper shall ensure that a MCDA approved deed restriction/declaration is filed in the land records against the lots that are identified as Affordable Unit lots at the time they are conveyed to builders, restricting their conveyance to income qualified purchasers at affordable prices.
 - f. **Participation.** In the event Redeveloper realizes aggregate lot sale proceeds in excess of \$7,959,200 (the "Excess Land Proceeds"), any Excess Land Proceeds shall first be used to reimburse any Redeveloper Soil Correction Costs in accordance with Section A(2)(a) herein or Redeveloper Site Improvement Costs, except that in no event shall Redeveloper Operating Expenses in excess of (\$238,800 less any Redeveloper Operating Expenses reimbursed under Section A(2)(d)(ii)) be reimbursed from this source. Any amount of Excess Land Proceeds remaining after payment of costs as described in the foregoing sentence will be paid (i) one half to Redeveloper and one-half to the City toward any Special Assessment Gap (or alternatively, to the MCDA) until Redeveloper profit (capping overhead costs at \$1,836,000) equals \$1,009,000; (ii) one-third to Redeveloper and two-thirds to the City until the Special Assessment Gap is paid down to zero, then (iii) one-third to the Redeveloper, one-third to the Affordability Fund and one-third to MCDA. Within 30 days of the final lot sale to a builder, Redeveloper shall provide the MCDA with documentation of aggregate lot sale proceeds and Redeveloper project costs prepared by a certified public accountant reasonably acceptable to the MCDA in a form reasonably acceptable to the MCDA and make payment to the City, MCDA and to the Affordability Fund, as applicable.
4. **Infill Lot Program.** The Redeveloper desires to propose a separate infill lot program to coordinate with this project. The MCDA staff working on Heritage Park will assist Redeveloper by coordinating discussions between the appropriate MCDA staff and the Redeveloper on such proposal.
5. **Builder Parameters**
- a. **Approved Builder List.** The approved Builder List is attached as Exhibit D. Redeveloper may not convey a lot to an approved Builder until the MCDA is provided

with reasonably satisfactory evidence that the Builder has sufficient financing to complete the number of units such Builder is proposing to build. MCDA will not unreasonably withhold its approval of the Builder financing

- b. **Pool Agreement** To establish the parameters for lot sales and to ensure adequate completion of the Minimum Improvements, all Builders will be subject either to (i) exclusive builder pool agreements requiring the periodic take down of a predetermined number of units and/or (ii) purchase agreements dictating similar requirements and obligations.
- c. **Insurance.** All Builders must carry adequate insurance coverage and name the MCDA, its successors and assigns as an additional insured.
- d. **Design Approval.** All housing and landscaping designs must be approved by LHB and Redeveloper, in accordance with overall design guidelines consistent with the project pattern book, approved by MCDA and generally as indicated in Redeveloper's proposal. In addition to all standard city zoning and planning reviews, all housing site and landscaping plans must be submitted to the MCDA for review and approval. The MCDA's review shall be limited to issues of project feasibility, livability of the residents and consistency with overall MCDA approved design guidelines and project pattern book. The MCDA shall have seven business days to either approve or disapprove the plans in writing once submitted.
- e. **Accessibility.** The Minimum Improvements to be constructed will comply with all applicable accessibility laws and with the accessibility requirements contained in the Minneapolis Near Northside Master Plan and the Heritage Park Request for Proposal.
- f. **Substitutions.** Builders on the approved list may be added or deleted by Redeveloper, subject to MCDA Executive Director approval, which approval will not be unreasonably withheld. Deletion for non-performance will be allowed with notice to but without approval by MCDA.
- g. **Habitat.** Redeveloper will coordinate and assist Habitat for Humanity ("Habitat") in developing 15% of the units to be affordable to homeowners with incomes below 60% of the AMI. Habitat will be an automatically approved Builder. Habitat will use other funding sources (e.g. internal, private grants, governmental) to pay for Soil Correction and Site Improvement costs associated with such lots. If Habitat does not construct the required number of units in accordance with Redeveloper's development schedule, MCDA and Redeveloper will cooperate to achieve a suitable alternative concerning the below 60% AMI units.
- h. **NRRC.** If NRRC creates a separate corporate or limited liability entity to act as the builder entity that is structured in a fashion satisfactory to MCDA, such builder entity shall be an approved Builder.
- i. **Builder Requirements.** Redeveloper, Builders and contractors will be required to comply with affirmative action, W&MBE, Section 3, prevailing wages, Apprentice and other mandated MCDA/City program requirements as established by the City Council for Heritage Park, and failure to do so, after suitable notice and opportunity to correct, may be a default or lead to removal from the approved Builder List. Redeveloper shall work with the City's Department of Civil Rights to enable compliance monitoring, or as otherwise directed by the MCDA.
- j. **Training.** Redeveloper will provide training and education for Builders with respect to the above requirements.

- k. **Predatory Lending.** Redeveloper and MCDA will cooperatively develop standards to monitor and prevent instances of predatory lending with respect to the development.
- l. **Homeowner Satisfaction.** Redeveloper shall be responsible for returning any calls the MCDA receives from project homeowners regarding satisfaction with their units.

6. Subsequent Phases of Development.

- a. **Storage/Early Start** MCDA and the City will reasonably cooperate with and assist Redeveloper with respect to Redeveloper's negotiations with MPHA for an agreement allowing Redeveloper to commence soil correction work and grading of Phases III and IV concurrent with Phases I and II except where infeasible due to necessary Public Improvement activities. The City shall, using its best judgement, reasonably cooperate and coordinate with Redeveloper with respect to the installation of Public Improvements in Phases III and IV to facilitate economies of scale in the future development of for-sale housing in Phases III and IV.
- b. **Phase III and IV Site Improvements.** Provided that Redeveloper is progressing reasonably satisfactorily on Phases I and II, Redeveloper, MCDA and City will begin negotiations on a term sheet for phases III and IV on or following January 2, 2004 with terms mutually agreeable to the parties, but generally parallel to the terms for Phases I and II. Such term sheet shall not be presented to the City Council/*MCDA Board* until Redeveloper has (i) commenced construction on 60% of the units in Phases I and II (with a reasonable mix of single-family and multi-family units), (ii) satisfactorily completed 35% of the units in Phases I and II (with a reasonable mix of single-family and multi-family units), (iii) Builder commitments for 90% of the lots, and (iv) demonstrated satisfactory progress in fulfilling its obligation to construct low-income housing pursuant to Section A(2)(c) herein as well as employment goals for the project. Provided terms can be reached that are mutually agreeable to the parties and Redeveloper has satisfactorily performed on Phases I and II to that date and, subject to Section B(6)(a) herein, Redeveloper will have the right to develop Phases III and IV upon execution of a Redevelopment Contract.

C. Project Financing

- 1. Equity/Debt Prior to acquisition of the land for Phases I and II, Redeveloper will demonstrate to MCDA that it has available sufficient equity sources and/or debt commitments for the Soil Correction Work, Site Improvement Work, and other project development costs.
- 2. Long-Term Affordability Fund
 - a. **Purpose.** The purpose of fund is to enhance long-term affordability for 60% to 80% buyers through down payment and financing assistance and will be facilitated, at Redeveloper's option, through second mortgages consistent with MCDA policy and/or collaboration with private non-profit organizations such as land trusts and co-operatives.
 - b. **Sources.** The Affordability Fund will be funded from Excess Land Proceeds as described in B(3)(f) above, and the funds identified in C(2)(c) below.
 - c. **MCDA Contribution.** MCDA shall commit \$261,000 of mortgage revenue bond funds it has earmarked for facilitating affordability for the Heritage Park Project to the Affordability Fund. Such funds are to be used as second mortgages consistent with MCDA policy.

- d. **Other Sources.** Redeveloper and MCDA will cooperate to seek other sources, public and private, to adequately capitalize the Affordability Fund. Redeveloper will be responsible for preparing all applications for any such funding.
- e. **Management.** The Affordability Fund will be managed and administered by the MCDA or its subcontractor, subject to conditions approved by MCDA and NRRC.

D. **Miscellaneous**

1. Grants and Other Sources of Funds.

- a. **Project Enhancement Grants.** MCDA will cooperate with Redeveloper's efforts to obtain grants and other sources of outside funding for various project costs, including art, monumentation and any extraordinary Redeveloper Site Improvement or Public Improvement Costs, affordability and enhanced design, provided that Redeveloper acknowledges that application for such funding may involve a competitive process (both internally and externally).
- b. **Pollution Grants.** MCDA will cooperate with Redeveloper's efforts to obtain environmental remediation funds from the Metropolitan Council and DTED, the Pollution Control Agency and Hennepin County for any pollution or contamination identified in the Project, provided that Redeveloper acknowledges that application for such funding may involve a competitive process (both internally and externally).
- c. **LCDA.** MCDA will cooperate with Redeveloper's efforts to obtain Livable Community Demonstration Account funds for any project short falls for site assembly, Redeveloper Site Improvement or Public Improvement Costs, enhancement and other similar costs, provided that Redeveloper acknowledges that application for such funding may involve a competitive process (both internally and externally).

2. Site Coordination. MCDA, Redeveloper and City Public Works will work cooperatively with the rental housing developer and City forces in coordinating the development of the site and the construction of the housing units. In coordination with the Redeveloper, the City will establish periods of exclusive use of right-of-way for street construction. A schedule for cooperatively completing the Public Improvements, Soil Correction Work and Site Improvements will be reasonably negotiated by the parties and attached to the Redevelopment Contract.

3. Other Approvals. Outlots have been or are being created by plats undertaken by City/MCDA and by the rental housing developer. Redeveloper will have responsibility for subdividing the outlots according to City zoning and subdivision requirements. Redeveloper agrees to dedicate an additional four feet of Parcel 4 as street easement right of way for 11th Avenue North and the resulting shift of the 10 foot utility easement on parcel 4 on such subdivision plat. Redeveloper will obtain all environmental, land use and zoning approvals for the Project. When not in conflict with City or MCDA policy, procedures or ordinances and provided there is no out-of-pocket cost to the MCDA, MCDA will cooperate and assist in obtaining such approvals.

4. Marketing. Redeveloper will prepare and submit to MCDA a reasonably satisfactory marketing plan for inclusive marketing and sales of the housing units.

5. MCDA Successor Entity. All MCDA rights and responsibilities under the Redevelopment Contract shall be fully assignable to the City of Minneapolis.

6. Exhibits to Redevelopment Contract:

- Legal description of Phase I and II property

- Proposed plat and/or site map
- Grading and utility plans
- Form of Proposed Builder Pool Agreement
- Form of Builder Purchase Agreement
- Form of deed
- Form of certificate of completion
- Form of mortgage and subordination
- Form of profit certification
- Environmental reports
- Marketing Plan
- Project Budget
- Approved Builder List
- MBE/WBE, Workforce, Section 3, etc. Goals